IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 626 of 1988

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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COMMR RAJKOT MUNICIPAL CORPN - Appellant(s)
Versus
MANCHHABEN RATILAL & 3 - Defendant(s)

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Appearance :

MR BP TANNA, SENIOR ADVOCATE for Appellant(s) : 1,
MR AJ PATEL for Defendant(s) : 1,
None for Defendant(s) : 2 - 3.
MR BN KESHWANI for Defendant(s) : 4,
MR SANDIP C SHAH for Defendant(s) : 4,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 03/04/2006

ORAL JUDGMENT

1. The present appeal is filed by the Rajkot

Municipal Corporation – appellant herein under Section-110-A of the Motor Vehicles Act challenging the judgment and award passed by the learned Motor Accident Claims Tribunal (Main), Rajkot District at Rajkot dated 30.3.1988 passed in MAC Case No.370 of 1983 by which the Tribunal has partly allowed the said claim petition and has ordered that the Opponent No.1 – original claimant is entitled to Rs.25,500/- as compensation for injury caused to him due to vehicular accident in question with proportionate costs and interest at the rate of 9 % per annum from the date of the application till realisation from the appellants herein as well as the driver.

2. It appears from the record that tanker of Rajkot Municipal Corporation was supplying water to the residents of Sahakar Society, Street No.5, on June 8, 1983 between 10.45 to 11.00 A.M. and that time the original opponent No.1 driver was moving the vehicle forward and backward and while

moving in reverse position, at that time, the original claimant came to be injured, for which, he preferred M.A.C.P. NO.370 of 1983 before the learned Motor Accident Claims Tribunal (Main), Rajkot District at Rajkot and the learned Tribunal has exonerated the State Government – opponent No.2 herein and the Insurance Company and held the appellant liable to pay the compensation. Being aggrieved and dissatisfied with the said order, the appellant has preferred the present First Appeal under Section-110-A of the Motor Vehicles Act.

3. The main contention on behalf of the appellant is that the learned Tribunal has materially erred in exonerating the State Government and the Insurance Company and holding the Rajkot Municipal Corporation liable to pay the compensation. It is required to be noted that in the said vehicular accident by the very said tanker one another person viz. Amrutlal

Ganeshbhai Gohil has died and was crushed who has also preferred the M.A.C.P. Before the very learned Tribunal, Rajkot and the judgment and award came to be passed in favour of that claimant holding that the very appellant herein is liable to pay compensation and thereby exonerated the State Government and the Insurance Company. Against the aforesaid judgment and award, the appellant – Rajkot Municipal Corporation has preferred First Appeal being F.A.No.624 of 1988 which came to be dismissed by the Division Bench of this Court vide its judgment and order dated 27.9.2005.

4. I have gone through the judgment and order passed by the Division Bench of this Court dated 27.9.2005 passed in First Appeal No.621 of 1988 and it appears that the Division Bench has relied upon the judgment and order passed in another First Appeal No.1062 of 1988 with Cross Objections No.68 of 2002 between the

Commissioner, Rajkot Municipal Corporation v. Godavariben Devchandbhai Kakkad and others decided on 22.9.2005 and other judgments. Considering the above and the fact that the Division Bench has held that judgment and order passed by the Tribunal exonerating the State Government and the Insurance Company and holding the Rajkot Municipal Corporation liable to pay compensation is just and proper and the same is not required to be interfered with and accordingly, the Division Bench has dismissed the said appeal. Therefore, for the reasons stated in aforesaid judgment dated 27.9.2005 passed in First Appeal No.624 of 1988 the appeal is dismissed and even otherwise, considering the fact that the original claimant is only awarded compensation of Rs.25,500/- which in my opinion in the facts and circumstances of the case, need not be required to be interfered.

5. For the reasons stated above, there is no

merit in this appeal and the same is dismissed. However, there shall be no order as to costs.

[M.R.Shah, J.]

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